

After careful review, Applicants must respectfully disagree that claims 48 and 54 are anticipated or rendered obvious by Seefeldt et al. Claim 48 recites:

48. A method for making a wafer-pair with a sealed chamber therebetween, comprising:

providing a first wafer and a second wafer;

forming one or more pump-out ports through the first wafer;


making a recess in a first side of the first wafer and/or a first side of the second wafer;

positioning the first side of the first wafer next to the first side of the second wafer, the first wafer and the second wafer forming a chamber that is at least partially defined by the recess, with the pump-out port of the first wafer in fluid communication with the chamber; and

plugging the pump out port to seal the chamber.

(Emphasis added). As can be seen, claim 48 recites a method for making a wafer-pair with a sealed chamber therebetween using a first wafer and a second wafer. In contrast, Seefeldt et al. suggest using an epitaxial layer 18 that is grown on a wafer to form the chamber 22. Seefeldt et al. state that "the n-type epitaxial layer 18 (FIG. 5) is deposited on the entire upper surface 17 of the wafer 8 by epitaxial deposition (Seefeldt et al. at column 5 lines 39-41). Also, and as can clearly be seen in Figures 7 and 11 of Seefeldt et al. which are reproduced on page 2 of the Office Action, the chamber 22 is defined by epitaxial layer 18 and wafer 8, and not a wafer pair as claimed.

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Merriam Webster's Collegiate Dictionary defines the term epitaxy as "the growth on a crystalline substrate of a crystalline substance that mimics the orientation of the substrate". As  such, and as is well known in the art, an epitaxial layer is not a wafer. Because claim 48 recites a method for making a wafer-pair with a sealed chamber therebetween using a first wafer and a second wafer, as well as for other reasons, claim 48 is believed to be clearly patentable over Seefeldt et al. but is 57


Now turning to claim 54. Claim 54 recites:

54. A bonded wafer pair having a sealed chamber, comprising:

a first wafer;

a second wafer bonded to the first wafer;

one or more pump-out ports through the first wafer;

 a recess in a first side of the first wafer and/or a first side of the second wafer;

the first wafer and the second wafer forming a chamber that includes the recess, with the pump-out port of the first wafer in fluid communication with the chamber; and

one or more plugs for plugging the one or more pump out ports to seal the chamber.

As can be seen, claim 54 recites a first wafer and a second wafer. Thus, for similar reasons to those given above with respect to claim 48, as well as other reasons, claim 54 is also believed to be clearly patentable over Seefeldt et al.

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On page 4 of the Office Action, the Examiner rejected claims 50-55 under the judicially created doctrine of obviousness-type double patenting over claims 1-17 of U.S. Patent No. 6,359,333 B1. Although Applicants respectfully disagree with the characterization of the present claims as obvious in view of the claims 1-17 of U.S. Patent No. 6,359,333 B1, Applicants have enclosed herewith a timely filed terminal disclaimer in compliance with 37 C.F.R. 1.321(c) as suggested by the Examiner.

On page 5 of the Office Action, the Examiner indicated that claims 1-47 and 49 are allowed.

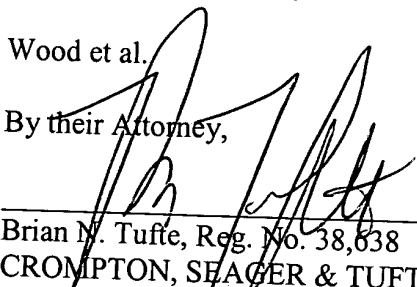
In light of the above remarks and the attached terminal disclaimer, Applicants believe that all claims are now in condition for allowance. Issuance of a notice of allowance in due course is respectfully requested. If a telephone conference would be of assistance, please contact the undersigned attorney at 612-677-9050.

Respectfully submitted,

Wood et al.

By their Attorney,

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